

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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THE NEW YORK STATE NURSES	:	
ASSOCIATION,	:	
	:	Case No.
Plaintiff,	:	
	:	
vs.	:	
	:	
MONTEFIORE MEDICAL CENTER,	:	
	:	
Defendant.	:	
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AFFIDAVIT OF BENNY MATHEW

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STATE OF NEW YORK }
 } ss.:
BRONX COUNTY }

Benny Mathew, being of full age and duly sworn, affirms as follows:

1. I am currently employed as a staff nurse at Montefiore Medical Center's Moses Campus ("MMC") in the Adult Emergency Department. I have worked in this role continuously since July 8, 2013. As a staff nurse, my primary duties are to provide direct patient care, which includes administering medication to patients, assessing patients' condition, providing patient education, and completing appropriate documentation for the unit's patients. I generally work between the hours of 12pm and 12:30am, three or four times in a given week.

2. I am represented by the New York State Nurses Association (“NYSNA”) and currently serve as a NYSNA delegate for bargaining unit employees. As a delegate, I assist NYSNA by providing representation to employees who are called into investigatory meetings by MMC Management.

3. By the second week of March 2020, my unit was primarily comprised of patients who were under investigation for potentially having COVID-19. By the third week of March, the majority of patients in my unit were diagnosed with COVID-19. During this time, I had to perform direct patient care using only a regular surgical mask, which had no seal to prevent infectious airborne particles from reaching my nose and mouth.

4. Around this same time, I asked my manager for a N95 respirator. My request was denied and my manager told me that the N95 was not recommended by the Centers for Disease Control and Prevention. I now know that not to be true.

5. On or about March 21, 2020, I started to experience a fever, body aches, and other symptoms of COVID-19 while working my regular shift. Towards the end of my shift, I reported these symptoms to MMC's Occupational Health Department. Although MMC representatives agreed that I was experiencing symptoms of COVID-19, they denied my request for a clinical test. I was instructed to stay out of work for seven days and update them on my condition in four days. Since I was unaware of any COVID-19 tests being provided by any private doctors in my community, I checked into my unit as a patient and received a test.

6. On or about March 25, 2020, I learned that I had tested positive for COVID-19. I believe that I contracted COVID-19 due to my exposure at work and the lack of adequate PPE, as I have not come into contact with any other persons I know to have the disease.

7. On or about March 26, 2020, I called MMC to provide an update on my condition, as they had previously requested. I told them that while I no longer had a fever, I still had other symptoms of COVID-19, including a headache, body aches, loss of appetite, and loss of my sense of taste, which were not improving. Notwithstanding this, MMC instructed me to return to work on March 28, 2020. Since I still had symptoms, I asked whether I could pass the virus to others if I returned to work while still being symptomatic. I did not receive an answer to my question.

8. During this same time period, I was also informed by MMC that I would have to use my personal sick time in order to be paid for the time that I was out of work with COVID-19.

9. Subsequently, I received notification from MMC that I was cleared to return to work as of March 28, 2020 as long as I did not have a fever. On April 2, 2020, I reported to work as previously scheduled, and I have been working ever since. Following my return, I continued to experience COVID-19 symptoms such as body aches and loss of appetite for at least two weeks.

10. Since returning to work, there still have been problems with receiving adequate PPE. While MMC has now begun distributing new N95 respirators to me upon the start of each shift, I have never been fit tested for the brand of N95 respirators that they distribute. I find this highly problematic because I often have to work using a N95 respirator that is too tight for my face, which causes discomfort and skin irritation around my nose and chin.

11. Additionally, MMC required me to wear the same gown between treating patients up until about a week ago. Prior to the COVID-19 outbreak, it was not an accepted practice to wear the same gown between patients because it is an infection control issue. Moreover, if I did wear the same gown in the past, I would have been subject to disciplinary action.

17th day of April, 2020

/s/Benny Mathew

Benny Mathew

STATE OF NEW YORK

NOTARY SITUATED IN THE COUNTY OF NEW YORK

Pursuant to Governor Andrew Cuomo's Executive Order 202.7, I attest that on this 17th day of April 2020, Benny Mathew appeared before me by live audio-video technology, proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to this instrument, affirmatively represented that she was physically situated in the County of Bronx, NY, by his/her signature executed the same in her capacity, and sent a true electronic copy of the same signed, executed instrument to me in the County of New York, NY.

Marie B. Hahn

Marie B. Hahn, Esq.

**Notary Public State of New York
Qualified in New York County
Notary Registration No. 02HA6374367
Notary Commission Valid to 4/30/2022**